

CITY ATTORNEY SUITE 407 904 PRINCESS ANNE ST. FREDERICKSBURG, VA. 22401 (703) 373-2500

CITY OF FREDERICKSBURG Virginia

9702

SEP 1 8 1978 -2 15 PN

INTERSTATE COMMERCE COMMERCIAL

September 15, 1978

261A091

Interstate Commerce Commission 12th And Constitution Avenue Attention Mildred Lee Room 1227 Washington, D.C. 20423

Dear Ms. Lee

o 1 8 1978

ICC Washington, D. C.

Re Recording of Security Agreement Regarding the Virginia Central Railway Company, A Virginia Corporation

Enclosed you will find two copies of the agreement which had existed between Railvest, Inc., a Maryland corporation; the Virginia Central Railway Company, a Virginia Corporation engaged in rail service on an interstate basis; and the City of Fredericksburg, Virginia, a municipal corporation.

Other creditors who should be notified of the filing of this agreement are as follows:

Mark Rothman 5530 Wisconsin Avenue Chevy Chase, Md 20015

Nicholas Kolesar Room 2018 Federal Building 400 N. 8th Street Richmond, VA 23240

Urchie Ellis RF & P 2134 W. Laburnum Avenue Richmond, VA 23227

Colin Gabriel 1500 Market Street Philadelphia, PA 19102

Robert Robbins 1800 M Street N.W. Washington, D.C. 20036

Cathleen Wooley National Bank of Washington 619 14st N.W. Washington, D.C. 20005

FEE OPERATION BR. I. C. C.

SEP 18 2 13 PH 78

RECEIVED

Roy Skeems Greenhoot Leasing Corporation 1019 19th Street, N.W. Washington, DC 20036

Joseph Keating 1531 31st. N.W. Washington, D.C. 20007

Mr. Serio, Steve Popeck, Berger & Serio 10400 Connecticut Avenue Kensington, MD 20795

Mr. Gerry Strong Coopers & Lybrand 1800 M Street Washington, DC 20036

Dr. Walter Abendschein 5530 Wisconsin Avenue Chevy Chase, MD 20015

Very Truly yours

Walter Jervis Sheffield

WJS:DB

المدوم المستنادة

WALTER J. SHEFFIELID ATTORNEY AT LAW P. C.

SUITE 407 904 PRINCESS ANNE STREET FREDERICKSBURG, VIRGINIA 22401 TELEPHONE: (703) 373.2500 CABLE ADDRESS: "SHEFFIELD" FILE NO.

September 15, 1978

Interstate Commerce Commission 12th and Constitution Avenue Attention Mildred Lee Room 1227 Washington, D.C. 20423

Dear Ms. Lee:

Please file the enclosed agreement regarding the City of Fredericksburg's interest in the stock and assets of the Virginia Central Railway Company, a Virginia Corporation. Enclosed is a transmittal letter and also a check in the amount of \$50.00 to record this agreement. Thank you.

Very truly yours

Walter Jervis Sheffield

WJS:DB

Enclosure

Interstate Commerce Commission Washington, **B.C.** 20423

9/21/78

OFFICE OF THE SECRETARY

Walter J Sheffield, City Atty. 904 Princess Ann Street, Suite 407 Fredericksburg, VA. 22401

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, 49 U.S.C. 20(c), on 9/18/78 at 2:15pm, and assigned recordation number(s) 9702

Sincerely yours,

H.G. Homme, Jr., Acting Secretary

Enclosure(s)

City of Gredorickshung Virginia 204 Junes and Sh. Verdan Gredenskalung, Va 2240 Thendel alnest Grasfech 3244 Grasfech Wash. D.C.

EXMIBITA

RECORDATION NO. 9702 line & Assertant

AGREEMENT

Chiquit 1111

SEP 1 x 1978 -2 15 PM

INTERSTATE COMMERCE COMMISSION

WHEREAS, it is the desire of Virginia Central Railway (hereinafter referred to as the VCR) a corporation organized under the laws of the State of Virginia to have its stock transferred to another corporation;

WHEREAS, it is the desire of the city of Fredericksburg, located in the state of Virginia, the sole shareholder of the VCR, to transfer its stock to Railvest, Inc.; and

WHEREAS, it is the desire of Railvest, Inc. (hereinafter referred to as Railvest) a corporation organized under the laws of the State of Maryland to obtain title and all incidents of ownership of such stock;

NOW THEREFORE, in consideration of the premises and other good and valuable consideration it is agreed:

REPRESENTATIONS AND WARRANTIES OF THE VCR AND THE CITY OF FREDERICKSBURG

- l. The VCR is a validly organized and existing corporation in good standing under the laws of the state of Virginia, is entitled to own its properties and conduct its business in the places where such properties are now owned or where such business is now conducted and does not have any active subsidiaries. The VCR has previously delivered to Donald H. Seifman, Esquire, counsel to Railvest copies of its Articles of Incorporation, By-laws and Corporate Minute Book. All such copies, forms and details are true, accurate and complete in all material respects.
- 2. The VCR has the total authorized capital stock of shares of common stock, having a par value of per share. As of , 1975 there were issued and outstanding of said authorized stock shares, all of which were validly issued, fully paid, and nonassessable and as of , 1975 there were no stock options outstanding for the acquisition of stock of the VCR.
- 3. The VCR has previously delivered to Railvest copies of its balance sheets and profit and loss statements as of December 31, 1974. Said financial statements were provided to the VCR by Abram V. Daniel . Such financial statements, including in each case the related notes, if any, fairly present financial condition of the VCR as of the date of said

financial statements, and the results of operations of the VCR for periods to which they pertain. All said statements when read with the related notes have been prepared in accordance with sound accounting practice consistently (except as indicated in said notes) pertaining throughout the periods involved.

- 4. The VCR has good and marketable title to the machinery, equipment, merchandise, materials, supplies and other tangible assets of every kind contained in it's offices and plants and to all assets, tangible or intangible, shown as assets in its records and books of account, free of all liens, encumbrances and charges except such liens, encumbrances, and charges as are stated in Schedule A to this Agreement and except for any liens or liabilities set forth on the balance sheets mentioned in paragraph 3 hereof.
 - 5. The VCR has not transferred, assigned, licensed or otherwise conveyed to others any interest or rights of the United States under any trade marks, trade names, letters papent, application for letters patent or patent license rights. No formal or informal claims have been made against the VCR for royalities or infringement on any trade marks To the best of the knowledge of the undersigned no director, officer, or employee of the VCR owns directly or has any material indirect interest in, any trade marks, trade names, letters patent or application for letters patent which pertain to product related to the railroad industry.
 - 6. All taxes imposed by the United States, any state or any subdivision, instrumentality or taxing authority thereof or any foreign country, due or payable by the VCR have been paid in full, or are provided for by reserves shown on the aforesaid balance sheet or the books of the VCR.
 - The VCR does not have any written or oral contract with an officer or individual employee or any Profit Sharing Plan, or bonus contract with any officer or individual employer. any contract with any labor union, any contract for the future purchase of materials, supplies, or equipment in excess of the estimated requirement for normal operation, any contract for the future purchase of materials, supplies, or equipment except contract at prices which, in the opinion of the Directors of the VCR are not unfavorable to the VCR, any contract for the future sale of any of the equipment, unless otherwise specified herein, of the VCR, any lease, license or royalty agreement except such as have been discoosed payable to Railvest in writing, or any contract which has not been disclosed to Railvest in writing. The VCR is not in default in any material respect with any contracts, agreements, purchases, wages or other documents referred to in this paragraph

- 8. There are no actions, suits, or proceedings in any tribunal, whether or not reportedly involving the VCR, pending or threatened against or effecting the VCR at law or in equity, or in admiralty before or by any federal, state, municipal or other government department, commission, board, bureau, agency, or instrumentality, domestic or foreign which actions, suits or proceedings might have an material adverse effect on the business or assets of the VCR, and the VCR is not in default with respect to any order, writ, injunction or decree in any court for federal, state, municipal or other government department, commission, board, bureau, agency or instrumentality, domestic or foreign.
- 9. There has been no material adverse change in the condition, financial or otherwise, of the VCR from December 31, 1974 the date of the last balance sheet. The business properties of the VCR have not since the December 31, 1974 financial statement been materially and adversly affected as a result of a fire, explosion, earthquake, accident, strike, walk out, requisition or taking of property by any government or agency thereof, flood, drought, riot, activities of the armed forces or acts of God or the public enemy.
- . 10. Since December 31, 1974 the VCR has not: been involved in any litigation or incurred any liability (absolute or contingent) except current liabilities and obligations under contract entered into in the ordinary course of business and except liabilities entered into or incurred in connection with. or in anticipation of, the execution and performance of the acquisition of the VCR by Railvest, except with respect of current liabilities becoming due and payable and liabilities and obligations excepted herein; nor has the VCR declared or made any payment or distribution to the city of Fredericksburg or purchased or redeemed any of its capital stock, mortgaged, pledged or subjected to lien, charge or any encumbrance any of its assets, tangible or intangible sold or transferred any of its tangible assets or canceled any of its debts or claims except in each case in the ordinary case of business, sold, assigned, or transferred any intangible assets suffered any extraordinary losses or waived any rights of substantial value, entered into any transactions other than in the ordinary course of business except in connection with the anticipation of its acquisition by Railvest, made any capital expenditures amounting to an aggregate of more than \$20,000 issued any stock, bonds or other corporate securities.
- 11. The VCR is not a party to or bound by any contract, agreement, or instrument nor has it incurred any obligation or encumbrance, which would materally and adversly effect the business property and assets and operations or financial conditions of the VCR except any such contract, agreement or

instrument or encumbrance, if any, the details of which are attached hereto on Schedule B. No broker or other person has been engaged by the city of Fredericksburg in such capacity as to afford a basis for any claim or commission arising out of the acquisition of the VCR by Railvest, whether by merger, acquisition of assets or otherwise.

12. The city of Fredericksburg is the sole share-holder of the outstanding stock of the VCR.

REPRESENTATIONS AND WARRANTIES OF RAILVEST

13. Railvest will provide for reimbursement of the city of Fredericksburg for the full cost of the locomotive described in Schedule C when it is delivered to the VCR, the cost to include transportation and mechanical work. Such reimbursement is not to be before the effective date.

Reimbursement for the second locomotive ordered by the VCR described in Schedule D is to be made as above.

- 14. Railvest guarantees the continued operation of the VCR.
- 15. (a) In the case of Railvest's dissolution, or bankruptcy, or reorganization pursuant to Chapter 11 of the Federal Bankruptcy laws, Railvest agrees to transfer the properties owned by the VCR as of the effective date of this agreement at a price equivalent of the cost of such properties less the depreciation of improvements.
- (b) If Railvest desires to sell or transfer the VCR to a third party the City of Fredericksburg shall have a right of first refusal. In the event a price and other terms are agreed upon with a third party, the City shall have the right for thirty days from the time a letter of intent or similar document is executed for such sale or transfer to match such terms and conditions. If the City cannot or does not do so but the transaction with the third party is not consumated the city shall continue to have such first right of refusal.

OTHER AGREEMENTS

- 16. Prior to the effective date of this Agreement real estate owned by the VCR shall be transferred to the city of Fredericksburg for the sum of \$1.00.
- 17. Such portion of the real estate owned by the city and utilized for the operation of the railroad shall be leased to Railvest for the sum of \$10.00 per year payable over 20 years on December 31, of each year beginning with the date December 31, 1975. At the end of this period a new lease for a perpetual period at a nominal rate shall be renegotiated.
 - 18. Except as otherwise provided, Railvest and the VCR, subsequent to the effective date of this Agreement will refrain from selling or encumbering any of the assets owned by the VCR as of the effective date of this Agreement for a period of ten years. However, the aforesaid sentence is not to restrict the methods of financing the acquisition of the locomotives, described in Schedule C and Schedule D.

The term assets includes the aforesaid locomotives, assets owned by the VCR on the date of execution of this Agreement and assets acquired by the VCR subsequent to the date of this Agreement which become fixed to the realty of the VCR. These assets may be sold or encumbered by Railvest or the VCR with the concurrence of the City Manager.

If the City Manager does not render a decision on such sale or encumbrance within thirty days of receipt or the request of Railvest or the VCR by the City Manager of Fredericks-burg, Railvest or the VCR may sell or encumber the property specified in the request and in the manner specified in the request.

19. Railvest agrees to have the VCR pay to the city of Fredericksburg annually 10% of the freight fee income under freight fee account 101 of the I.C.C. plus 10% of net per diem and mileage revenues of cars beneficially owned by the VCR of the VCR which exceeds the same type income for the year beginning January 1, 1974 through and including December 31, 1974 for a period of ten years. For the period beginning with the effective date of this Agreement and ending December 31, 1975 the city's return shall be based on the said income for the same period in 1974. Subsequent to the tenth anniversary of the effective date Railvest shall have the VCR pay to the city of Fredericksburg 5% of the said income on an annualized basis that is generated by the VCR which exceeds the said

income for the aforesaid base period, for a period of 10 years. Thereafter the city shall not be entitled to any percentage of revenues. However, said income shall be defined to exclude the incentive per diem revenues earned by the VCR from the effective date of this agreement as well as per diem and mileage for cars beneficially owned by persons other than the VCR.

- The city of Fredericksburg is to transfer its entire stockholdings of the VCR to Railvest as of the effective date of this agreement. The city attorney for the city of Fredericksburg, William J. Kinnamon, Jr., Esquire, shall deliver to Donald H. Seifman, Esquire counsel to Railvest prior to the effective date of this agreement a letter of opinion providing that the directors have the authority to provide for such transfer of said shares and is to forward a certified true copy of a resolution of the Board of Directors and Shareholders authorizing the execution of this agreement and transfer of stock. to the effective date of this agreement the city attorney of the city of Fredericksburg shall deliver a letter to counsel of Railvest stipulating that in his opinion the VCR and the city of Fredericksburg have filed all necessary papers incident to this agreement with appropriate state and local authorities or that no papers were necessary. Copies of any papers filed with state or local authorities shall be sent to counsel of Railvest. He shall also provide an opinion that the signatories for the VCR and the city have the authority necessary to effectuate this Agreement. William J. Kinnamon, Jr., Esquire shall provide an opinion that the VCR is current in its filings with all government authorities including the I.C.C.
- 21. Neither the city of Fredericksburg nor the VCR shall transfer any assets of the VCR to any third party from the date of execution of this agreement until the transfer of the stock of the VCR to Railvest.
- 22. The city of Fredericksburg shall indemnify the VCR and Railvest for any damages or liabilities which are not disclosed in the financial statements of the VCR for the period January 31, 1974 through and including December 31, 1974 nor in writing to Donald H. Seifman, Esquire prior to execution of this agreement.
- 23. The VCR is hereby granted a perpetual option for a perpetual lease at the rate of five dollars per year of an easement over the city's property formerly owned by Dart

Industries on the Dart Tract shown on Plat Survey by Sullivan, Donahue & Associates, December 13, 1973 - recorded in Deed Book 151, Folio 298 between points B and C on said plat; and a perpetual option for a perpetual right of way over the easement owned by the City over the Dart Tract at the rate of five dollars per year recorded in Deed Book 151, Folio 298 between points A and B on said plat; both easements being twenty feet in width; to be used by the VCR to connect the existing system of the VCR with the Richmond, Fredericksburg and Potomac Railroad at a point west of Mayfield. Said option may be exercised whenever said right of way is deemed necessary by the VCR for its operation.

24. Railvest and the VCR agree funds received from the Virginia Department of Highways and Transportation in consideration of the abandonment of the Grade Intersection with the proposed East West Connector Highway will be used by the VCR to construct a new track or tracks connecting the existing system of the VCR with the Richmond, Fredericksburg and Potomac Railroad at a point west of Mayfield subdivision. Such funds will be deposited into an Escrow Account held by counsel to Railvest, Donald H. Seifman, with stipulations to the effect that they may be drawn upon for the aforesaid purposes when such draw is approved by the VCR and the City Council of the city of Fredericksburg. However, this shall not preclude a draw to reimburse the VCR for money spent for the aforesaid purpose prior to receiving funds from the Virginia Department of Highways and Transportation.

However, if said project is accomplished and if said funds exceed the disbursements necessitated by such connection the VCR shall be entitled to the remainder. The VCR shall also be entitled to the salvage of any abandoned track on roadbed owned by the VCR on January 1, 1975.

- 25. Railvest and the VCR shall not jointly or severally accept or seek payment for any other land acquired by the Virginia Department of Highways and Transportation for the aforesaid East West Connector as shown on plan titled Project 0003-111-102-PE101, 003-089-104-PE101 as finally approved, nor damages to business revenues or damages to residues of business revenues caused by such acquisition with the exception that damages may be sought as a result of personal injury or physical injury to property of the VCR and except as otherwise provided in applicable Federal or State statute or regulation. All parties shall endeavor to reach a lump sum settlement.
- 26. Counsel to Railvest will deliver to the city attorney of the city of Fredericksburg a letter stipulating that in his opinion Railvest has the authority to acquire the VCR and that authorization from the Interstate Commerce Commission is not necessary for the transfer of ownership of the VCR to Railvest.

- 27. Railvest shall use all due diligence to acquire insurance at reasonable rates for the VCR to cover personal or property damage. In the event insurance coverage is not obtained or is insufficient to cover a claim or claims Railvest shall indemnify and hold harmless the city for damages and expenses arising out of its ownership of properties used by the VCR if the VCR is given the opportunity to join in or have its counsel aid in the representation of the defense of such an action and the VCR must approve any settlement of such an action.
- 28. Any dispute between the parties hereto is to be resolved by binding tripartite arbitration under the rules of the American Arbitration Association.

IN WITNESS WHEREOF, the parties hereto affix their signatures and seals this _____ day of _______

RAILVEST, INC.

BY: Touch

ATTEST:

Secretary

VIRGINIA CENTRAL RAILWAY

BY: lathen R Smith

President

ATTEST:

Secretary

CITY OF FREDERICKSBURG

BY: Turenom Tunk

SCHEDULE A

None

SCHEDULE B

None

SCHEDULE C

H.K. Porter - 44 ton diesel electric switcher

Built in 1942

Serial #7396

SCHEDULE D

General Electric - 44 ton Diesel electric switcher

Built in 1948

Serial #29971

Page 1 of Page(s)

Mealing Date: \$\sigma = 11 - 10

RF&P RATEROAD COMPANY Broad Street Station Richmond, Virginia 23220

BILL OF SAIR

Richmond, Fredericksburg and Potomac Railroad Company (hereinafter called the Vendor) as a contribution or donation for exclusively public purposes does hereby give, grant, bargain, sell, transfer and set over unto the City of Fredericksburg, Virginia, (hereinafter called the Vendee), its successors and assigns, the following unit of railroad equipment which has been delivered by the Vendor to the Vendee:

RF&P Caboose Car 911

To have and to hold all and singular the railroad equipment above described to the Vendee, its successors and assigns, for its and their own use and behoof forever.

And the Vendor hereby variants to the Vendee, its successors and assigns, that, at the time of delivery of the above described unit of railroad equipment to the Vendoe, the Vendor had legal title thereto and good and lawful right to so dispose of such unit.

IN WITNESS WHEREOF, the Vendor has caused this instrument to be executed in its name by a duly authorized officer and its corporate seal to be hereunto affixed, duly attested, the Value day of July, 1970.

President

Attest:

Secretary

October 23, 1967

C. P. Dean Company 1611 West Bread Street Richmont, Virginia 23220

Centlemen:

Would you give us an estimate on the cost of a metal plaque approximately one square foot in size, with the following information on it:

COACH 528

Presented by
Richmond, Fredericksburg, and Potomac Railroad Co.
to the City of Fredericksburg
September 22, 1967
Built 1925 by Bethelsham Steel Co.
Weight: 165,800 pounds
Length: 34,3/4 feet

Included in the price estimate, we would want you to give us some idea as to your charge for designing the proper placement of the information mentioned above on the plaque.

High training of Yours truly,

A. C. Harris, Jr. Assistant to the City Manager

ACH, Jr./cs

EXALBIT D. July 25, 1975

Mr. A. C. Harris, Jr.
Assistant to City Manager
City of Fredericksburg
Fredericksburg, Virginia

Dear Mr. Harris:

Per your letter of May 30, we gladly accept your offer regarding RF&P Coach 528 and RF&P Caboose Car 911.

Sincerely,

Mud film David Salvador Vice President

DS:pak

Mr. Joseph E. Keating Railvest Inc. 3244 Prospect Street, N. W. Washington, D. C. 20007

Dear Mr. Keating:

Fredericksburg City Council, on May 27, 1975, decided to offer to transfer title to former RF&F Coach 523 and RF&F Caboose Car 911 when your company acquires the stock in the Virginia Central Railway.

Please advise if you will accept this offer.

Very truly yours,

A. C. Harris, Jr. Assistant to City Manager

. pe

大人 本語 大き 大き 大き 大き 大き

Enc.
Bill of sale

DECEMBER, 1924

(These not included on inventory in Balance Sheet)

```
MINCHINANSOUS
2 / Car Stops
 3 Devailers
 2 Russian Points
 SHOP TOOLS
I Set Pips Dies
                       $ 25,00
 1 Stationys Dies
                         30.08
 1 West Pume
                         25.00
 3 Pips Wreaches
                                                     $105.00
   1-19"
   1...24"
   1.436"
 1 and Fress
 1 Grinder
 1 Vice
 2 Lange Wrenches
 10 Small end Wrenches - asported
 5 box wrenches - assorted
 1 Anvil 101 lbs.
 l forge
 l cross cut saw
 l spirit lowel
 1 50 ten car jack
 1 35 ton general jack:
 TRACK TOOLS
  2 Clay Bars
 4 Lining Bars
 4 Track Jocks
 4 Spiking Hammers .
3 & Shovels
 1 Long Handled Shovel 1.
2 Ø Spades
 5 Track Wranches
  3 Picks
  2 Track Chisals
  2 Track Jauges
  3 Sets hand rail tongs
  1 Crane Tong
Pair Tis Tongs
  2 Eynth Ax
  1 Laddor - 201
  1 Rail Bender
  l Track Spaay
  i fressel Jack 🛒
    Old locomotive tools (heavy wranches) of no use except for junk
```

1 Prack Brill

JEENSAM.

MARRIEALS END SUPPLY

INVENCORY

DECEMBER 31, 1974

1,600.0

300 Parties titles 14 Partiet Vimbors

4/20 1 80-4

1 317/MS 2 pc 107, 6 1/2 flange, 5/16" Wob - 15 1/0 - 30 dbs. per fix 7 " 107, 6 1/2 flange, 3/4" " - -25' - 35 lbs, per fix 4 "10", 6" flange, 5/15" Wob - 25' - 54.7 lbs. per fit. 4 " 18 , 6" flange, 5/16" Web - 30' - 54.7 lbs. per fit.

RESTLE TRUMERS
1 Place 12" x 12" x 10" - 120 dd. St. @ 17.4c 20.83
1 Piece 10" x 12" x 17" - 170 bs., 3t. @ 12.1c 20.57

50.71 Lbs Tie Plates
10-70KB ANGLE BARS
10-75KB ANGLE BARS

30.50